

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Appellants: Castelli et al.

Examiner: J. Hirl

Serial No: 09/916,935

Group Art Unit: 2129

Filed: July 27, 2001

Docket: YOR9-2001-0461 (8728-524)

For: METHOD AND APPARATUS FOR PREDICTION OF COMPUTER
SYSTEM PERFORMANCE BASED ON TYPES AND NUMBERS
ACTIVE DEVICES

RESPONSE

This is a response to the Office communication mailed on August 9, 2007.

Appeal from Group 2129

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REMARKS

In the Office Communication, the Examiner stated that the reply brief, filed on July 2, 2007, was not considered because it is not in compliance with 37 CFR 41.41(a) and fails to conform to the requirements set forth in MPEP 1208I. Applicants' undersigned representative contacted the Examiner on August 15, 2007 and requested the Examiner's reasons for rejecting the reply brief. The Examiner indicated that he would respond within twenty four hours. Applicants' representative then received a voice mail message from the Examiner on August 16, 2007. The voice mail message indicated that the Examiner had erroneously used a 2008 calendar to determine whether the reply brief was timely and had mistakenly rejected the reply brief. The message further stated that upon proper review of a 2007 calendar, the reply brief was indeed timely. Accordingly, Applicants request reconsideration of the reply brief filed on July 2, 2007.

Respectfully submitted,

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